

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 2750 - HB 3317

February 28, 2012

SUMMARY OF BILL: Requires the Department of Health to establish an independent informal dispute resolution (IIDR) program for nursing homes as required by the Patient Protection and Affordable Care Act (PPACA). Creates a three member IIDR panel and establishes membership requirements. Authorizes any facility requesting an IIDR to submit exhibits or other documentation to support its case without limitation.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$23,100

Decrease Federal Expenditures - \$23,100

Assumptions:

- According to the Department of Health, the Department was required to develop an IIDR hearing process for nursing homes to dispute certain cited federal certification deficiencies, and submit the plan for the hearing process to the Centers for Medicare and Medicaid Services (CMS) by November 30, 2011.
- Federal guidance on the mandated IIDR process issued December 2, 2011, requires that if the state has a law or regulation obliging the state to offer an IIDR, specifies a manner in which an IIDR is to be provided, or specifies who must provide the IIDR, then the state is responsible for covering approximately 33 percent of the cost of such hearings. Without a state law being in place, the state is only responsible for covering approximately 12.5 percent of the cost of the hearings and the federal government will cover the remaining 87.5 percent.
- The Department received an official letter of approval from CMS for the state's revised IIDR plan on February 11, 2012. In communications between CMS and the Department prior to official approval, CMS commented that "all IIDR contractors will need to be approved by CMS per Paragraph 7213.7 (of the CMS State Operations Manual). CMS will need to see the qualifications and experience of each person." As a result, only CMS has the authority to approve the qualifications of proposed IIDR panel members and the state is to submit any proposed IIDR panel candidate qualifications to CMS for such approval without regard to any panelist qualifications that may be placed into statute through the provisions of the bill.

- The Department estimates that the IIDR hearing panelists will receive a total of \$2,500 in per diem (\$1,000) and travel reimbursements (\$1,500) for each two to three day meeting.
- There has been an average of 45 nursing home jeopardy and substandard level of care citations per state fiscal year over the past three years. CMS estimates that 100 percent of these cases will result in an IIDR request.
- The estimated cost for IIDR hearings is \$112,500 (\$2,500 x 45 requests).
- Since the provisions of the bill will codify requirements for an IIDR hearing process that does not comply with CMS requirements and regulations, the amount of hearing costs the state is required to cover will increase from 12.5 percent to 33 percent.
- The recurring increase in state expenditures is estimated to be \$23,063 [(\$112,500 x 33%) – (\$112,500 x 12.5%)].
- There will be a corresponding recurring decrease in the amount of IIDR hearing costs that the federal government will cover.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Lucian D. Geise'.

Lucian D. Geise, Executive Director

/kml